



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAIL Paper No. 14

MOSER, PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, NJ 07702

SEP 22 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of: :
GOLESTANI :
Application No. 09/273,948 :
Filed: March 22, 1999 :
For: SCALEABLE CONGESTION CONTROL :
METHOD FOR MULTICAST :
COMMUNICATIONS OVER A DATA :
NETWORK :

DECISION
ON PETITION

This is a decision in response to the paper received by facsimile on July 21, 2004 entitled "Request for Update of PTO Records and for Re-mailing." The request is being treated as a petition under 37 CFR 1.8(b) to withdraw the holding of abandonment.

*The petition is **denied**.*

This application became abandoned for failure to timely file a response to the final Office action mailed July 11, 2003, which set a shortened statutory period of three (3) months to reply. A Notice of Abandonment was mailed on March 23, 2004.

Petitioner alleges that the final Office action was mailed to an incorrect address. In support thereof, petitioner submits a copy of a change of address purported to have been filed by facsimile on April 28, 2003, prior to the mailing of the final Office action. However, the copy of Auto-Reply Facsimile Transmission submitted with the petition indicates that only one page was transmitted on April 28, 2003. It is noted that the copy of the submission attached to the petition, the change of address is on the second page. The original first page was received and entered in the file. The second page with the pertinent change of address information was not received.

37 C.F.R. § 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

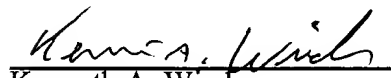
- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The copy of the submission with change of address does not have a certificate of transmission affixed thereon in accordance with 37 CFR § 1.8(a). Consequently, the petition does not meet the requirements of Rule 1.8(b).

Application Serial No.: 10/273,948
Decision on Petition

Petitioner is given TWO MONTHS from the date of this decision to request reconsideration. This time period is not extendable under 37 CFR 1.136(a). Petitioner should consider filing a petition under 37 CFR 1.137.

The application file is being returned to the file repository. The address of record has been changed to that shown above in accordance with the request attached to the petition.


Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications